

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION**

| | | |
|---------------------------------------|---|---------------------------------|
| Angela N. Allen |) | C. A. No: 5:20-cv-00003-KDB-DCK |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | JURY TRIAL DEMANDED |
| |) | |
| Lazy T, LLC., and Larry Dexter Harmon |) | |
| |) | |
| |) | |
| Defendants |) | |

PLAINTIFF’S MOTION FOR DEFAULT FINAL JUDGMENT

COMES NOW Plaintiff, by and through her undersigned counsel, and files this Motion for Default Final Judgment.

- (1) Plaintiff filed her Complaint on January 20, 2020. (ECF No. 1)
- (2) On March 17, 2020, the Court Ordered that Defendants were to have replacement counsel make an appearance by March 23, 2020 and reaffirmed their Answer was due on March 27, 2020. (ECF No. 9)
- (3) Defendants failed to have replacement counsel make an appearance or file their Answer to the Complaint.
- (4) On April 3, 2020, Plaintiff filed a Motion for Entry of Default against Defendants.
- (5) On April 3, 2020, the Clerk filed an Entry of Default against Defendants.
- (6) Since April 3, 2020, neither Defendant has moved to set aside the Entry of Default.

- (7) Therefore, the present matter is ripe for the filing of a Motion for Default Final Judgment.
- (8) Pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, this Court is empowered to enter a default judgment against the Defendants for the relief sought by the Plaintiff in the Complaint.
- (9). Plaintiff requests that the Court conclude, as a matter of law, that Plaintiff is entitled to a default judgement against Defendants on all the claims raised in her Complaint, as follows.
- a. As to Defendant Harmon on her claims for Assault, Battery, and Intentional Infliction of Emotional Distress.
 - b. As to Defendant Lazy T. on her claims for retaliation and sexual harassment/ sexually hostile work environment under Title VII of the Civil Rights Act of 1964.
 - c. As to both Defendants, jointly and severally, on her claims for violation of the overtime provisions of the Fair Labor Standards Act as well as Wrongful Discharge in Violation of the Public Policy of North Carolina.
- (9) Plaintiff requests that the Court enter Default Judgment against Defendants and award her damages for back pay, front pay, unpaid overtime, compensatory damages, punitive damages, as well as pre-judgement and post judgement interest. Following the conclusion of the proceedings, Plaintiff will move for an award of costs and attorney's fees.
- (10) Plaintiff supports her Motion with her Memorandum filed in support contemporaneously with this Motion.

- (11) As outlined in her Memorandum, Plaintiff is entitled to a judgment in the amount of \$63,998.00 on her wrongful discharge claim under Title VII of the Civil Rights Act of 1964 and public policy of North Carolina as well as her unpaid overtime claim under the Fair Labor Standards Act. No hearing is necessary to determine these damages.
- (12) Plaintiff requests the Court set a hearing date to establish and determine her front pay damages on her wrongful discharge and retaliatory discharge claims, as well as, compensatory and punitive damages on her claims for Assault, Battery, Intentional Infliction of Emotional Distress under the law of North Carolina and sexual harassment under Title VII of the Civil Rights Act of 1964.

Respectfully submitted,

/s/ Jacob J. Modla
Jacob J. Modla
N.C Bar. ID No: 17534
The Law Offices of Jason E. Taylor P.C.
454 South Anderson Rd.
Suite 303
Rock Hill, SC 29730
T: 803-328-0898
E-Mail: jmodla@jasonetaylor.com

July 20, 2020

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 20, 2020 he filed the foregoing, which was served this date by ECF, and by serving the Defendants pursuant to Rule 5 of the Federal Rules of Civil Procedure by mail, to the address shown below, as follows.

Larry Dexter Harmon
4273 Beach Rd.
Hudson, NC 28638

/s/ Jacob J. Modla
Jacob J. Modla
N.C Bar. ID No: 17534
The Law Offices of Jason E. Taylor P.C.
454 South Anderson Rd.
Suite 303
Rock Hill, SC 29730
T: 803-328-0898
E-Mail: jmodla@jasonetaylor.com

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ATTORNEY FOR PLAINTIFF